

AMENDED IN SENATE APRIL 21, 2010  
AMENDED IN SENATE JANUARY 25, 2010  
AMENDED IN SENATE AUGUST 17, 2009  
AMENDED IN ASSEMBLY APRIL 14, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 289**

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**Introduced by Assembly Member Galgiani**

February 13, 2009

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An act to amend ~~Section 185024~~ of *Sections 185024 and 185033* of, and to add *Section 185036.5* to, the Public Utilities Code, relating to high-speed rail, *making an appropriation therefor*, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 289, as amended, Galgiani. High-speed rail.

Existing law, the California High-Speed Rail Act, creates the High-Speed Rail Authority to develop and implement a high-speed rail system in the state, with specified powers and duties. Existing law, pursuant to the Safe, Reliable High-Speed Passenger Train Bond Act for the 21st Century, approved by the voters as Proposition 1A at the November 4, 2008, general election, provides for the issuance of \$9.95 billion in general obligation bonds for high-speed rail and related purposes. Existing law provides for appointment of an executive director by the authority, who is exempt from civil service and serves at the pleasure of the authority.

This bill would authorize the Governor to appoint up to 5 deputy directors exempt from civil service who would serve at the pleasure of the executive director.

The federal American Recovery and Reinvestment Act of 2009 (ARRA) provides funding for allocation nationally to high-speed rail projects.

~~This bill would require the High-speed Rail Authority, to the extent possible, to use the proceeds of bonds from the Safe, Reliable High-Speed Passenger Train Bond Act for the 21st Century to match federal funds made available from the American Recovery and Reinvestment Act of 2009 appropriate \$2.25 billion to the authority from federal ARRA funds awarded to the state for high-speed rail purposes and would identify the corridors eligible for those funds. The bill would require the authority to take those actions necessary to ensure that the federal funds are used and expended in a manner that meets all applicable federal guidelines, make the most efficient use of available state bond funds, and are expended and used consistent with current state law. The bill would require the authority to report to the Director of Finance and the Legislature relative to the expenditure plan for ARRA funds. The bill would require the authority to include in its business plan an estimate of jobs created in each corridor. The bill would state the intent of the Legislature to establish an inspector general to oversee the fiscal functions of the authority.~~

This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: ~~no~~ yes. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. The Legislature finds and declares all of the
- 2     following:
- 3     (a) With the enactment of the federal American Recovery and
- 4     Reinvestment Act (ARRA) (Public Law 111-5) on February 17,
- 5     2009, the federal government made available a grant program in
- 6     which states could apply for up to \$8 billion in federal funds for
- 7     the development of high-speed rail throughout the nation.
- 8     (b) On October 2, 2009, the High-Speed Rail Authority (HSRA)
- 9     submitted to the Federal Railroad Administration (FRA) of the
- 10    United States Department of Transportation an application for

1 \$4.73 billion in federal funds to further the development of  
2 high-speed rail in California.

3 (c) On January 28, 2010, the federal government awarded the  
4 HSRA \$2.25 billion to advance the development of a high-speed  
5 rail system in this state.

6 (d) (1) The HSRA's application was approved for preliminary  
7 engineering, project-level environmental work, mitigation, final  
8 design, and construction for the following four corridors:

9 (A) San Francisco to San Jose.

10 (B) Merced to Fresno.

11 (C) Fresno to Bakersfield.

12 (D) Los Angeles to Anaheim.

13 (2) In accordance with FRA guidelines, these corridors are  
14 required to complete environmental review by September 2011  
15 and to start construction by September 2012, with construction  
16 completion by September 2017.

17 (e) The HSRA's application was approved for preliminary  
18 engineering, and project-level environmental work for the following  
19 five corridors:

20 (1) Los Angeles to San Diego.

21 (2) Los Angeles to Palmdale.

22 (3) Palmdale to Bakersfield.

23 (4) Merced to San Jose.

24 (5) Sacramento to Merced.

25 (f) The HSRA estimates that 60,277 jobs will be created or  
26 maintained by the investment of these ARRA funds in the dozens  
27 of construction projects along the eligible corridors throughout  
28 California.

29 (g) It is necessary to provide the HSRA with unambiguous  
30 statutory authority to receive and expend federal funds awarded  
31 to the HSRA for the purposes described in its application of  
32 October 2, 2009, and consistent with the award of those federal  
33 funds.

34 (h) Moreover, it is in the state's interest to obligate and expend  
35 awarded funds as expeditiously as possible and in a manner  
36 consistent with the voters' expectations when they approved the  
37 Safe, Reliable High-Speed Passenger Train Bond Act for the 21st  
38 Century (Chapter 20 (commencing with Section 2704) of Division  
39 3 of the Streets and Highways Code) in November 2008, in order

1 *to expand job creation and to complete vital infrastructure*  
2 *improvements as soon as possible.*

3 ~~SECTION 1.~~

4 *SEC. 2.* The High Speed Rail Authority shall, to the extent  
5 possible, use the proceed of bonds described in paragraph (1) of  
6 subdivision (b) of Section 2704.04 of the Streets and Highways  
7 Code to match federal funds made available from the American  
8 Recovery and Reinvestment Act of 2009 (Public Law 111-5).

9 ~~SEC. 2.~~

10 *SEC. 3.* Section 185024 of the Public Utilities Code is amended  
11 to read:

12 185024. (a) The authority shall appoint an executive director,  
13 who shall serve at the pleasure of the authority, to administer the  
14 affairs of the authority as directed by the authority.

15 (b) The executive director is exempt from civil service and shall  
16 be paid a salary established by the authority and approved by the  
17 Department of Personnel Administration.

18 (c) The executive director may, as authorized by the authority,  
19 appoint necessary staff to carry out the provisions of this part.

20 (d) The Governor may appoint up to five employees, exempt  
21 from civil service, as deputy directors of the authority, who shall  
22 serve at the pleasure of the executive director.

23 *SEC. 4.* *Section 185033 of the Public Utilities Code is amended*  
24 *to read:*

25 185033. (a) The authority shall prepare, publish, adopt, and  
26 submit to the Legislature, not later than January 1, 2012, and every  
27 two years thereafter, a business plan. At least 60 days prior to the  
28 publication of the plan, the authority shall publish a draft business  
29 plan for public review and comment. The draft plan shall also be  
30 submitted to the Senate Committee on Transportation and Housing,  
31 the Assembly Committee on Transportation, the Senate Committee  
32 on Budget and Fiscal Review, and the Assembly Committee on  
33 Budget. The business plan shall identify all of the following: the  
34 type of service the authority anticipates it will develop, such as  
35 local, express, commuter, regional, or interregional; a description  
36 of the primary benefits the system will provide; a forecast of the  
37 anticipated patronage, operating and maintenance costs, and capital  
38 costs for the system; an estimate and description of the total  
39 anticipated federal, state, local, and other funds the authority  
40 intends to access to fund the construction and operation of the

1 system; and the proposed chronology for the construction of the  
2 eligible corridors of the statewide high-speed train system. The  
3 business plan shall also include a discussion of all reasonably  
4 foreseeable risks the project may encounter, including, but not  
5 limited to, risks associated with the project's finances, patronage,  
6 right-of-way acquisition, environmental clearances, construction,  
7 equipment, and technology, and other risks associated with the  
8 project's development. The plan shall describe the authority's  
9 strategies, processes, or other actions it intends to utilize to manage  
10 those risks.

11 (b) (1) In addition to the requirements of subdivision (a), the  
12 business plan shall include, but need not be limited to, all of the  
13 following elements:

14 (A) Using the most recent patronage forecast for the system,  
15 develop a forecast of the expected patronage and service levels  
16 for the Phase 1 corridor as identified in paragraph (2) of subdivision  
17 (b) of Section 2704.04 of the Streets and Highways Code and by  
18 each segment or combination of segments for which a project level  
19 environmental analysis is being prepared for Phase 1. The forecast  
20 shall assume a high, medium, and low level of patronage and a  
21 realistic operating planning scenario for each level of service.  
22 Alternative fare structures shall be considered when determining  
23 the level of patronage.

24 (B) Based on the patronage forecast in subparagraph (A),  
25 develop alternative financial pro formas for the different levels of  
26 service, and identify the operating break-even points for each  
27 alternative. Each pro forma shall assume the terms of subparagraph  
28 (J) of paragraph (2) of subdivision (c) of Section 2704.08 of the  
29 Streets and Highways Code.

30 (C) Identify the expected schedule for completing environmental  
31 review, and initiating and completing construction for each segment  
32 of Phase 1.

33 (D) Identify the source of federal, state, and local funds available  
34 for the project that will augment funds from the bond act and the  
35 level of confidence for obtaining each type of funding.

36 (E) Identify written agreements with public or private entities  
37 to fund components of the high-speed rail system, including  
38 stations and terminals, any impediments to the completion of the  
39 system, such as the inability to gain access to existing railroad  
40 rights-of-way.

1 (F) Identify alternative public-private development strategies  
2 for the implementation of Phase 1.

3 (G) *Identify the number of jobs each corridor is estimated to*  
4 *create in this state.*

5 (2) To the extent feasible, the business plan should draw upon  
6 information and material developed according to other  
7 requirements, including, but not limited to, the preappropriation  
8 review process and the preexpenditure review process in the Safe,  
9 Reliable High-Speed Passenger Train Bond Act for the 21st  
10 Century pursuant to Section 2704.08 of the Streets and Highways  
11 Code. The authority shall hold at least one public hearing on the  
12 business plan and shall adopt the plan at a regularly scheduled  
13 meeting. When adopting the plan, the authority shall take into  
14 consideration comments from the public hearing and written  
15 comments that it receives in that regard, and any hearings that the  
16 Legislature may hold prior to adoption of the plan.

17 SEC. 5. *Section 185036.5 is added to the Public Utilities Code,*  
18 *to read:*

19 185036.5. (a) *The Legislature hereby appropriates to the*  
20 *authority the sum of two billion two hundred fifty million dollars*  
21 *(\$2,250,000,000) made available to the state for high-speed rail*  
22 *purposes pursuant to Title XII of Division A of the American*  
23 *Recovery and Reinvestment Act of 2009 (ARRA). The authority*  
24 *may expend these funds for the purposes of developing a project*  
25 *or projects on the high-speed rail network consistent with this*  
26 *section.*

27 (b) *The federal funds appropriated in subdivision (a) shall be*  
28 *available for obligation and expenditure by the dates specified in*  
29 *the federal requirements implementing the federal act. The*  
30 *authority shall take those actions necessary to ensure the federal*  
31 *funds awarded to it (1) are expended and used in a manner that*  
32 *meets all applicable federal guidelines, (2) make the most efficient*  
33 *use of available state bond funds, including replacing bond funds*  
34 *for project expenditure with available federal funds where feasible,*  
35 *and (3) are expended and used consistent with state law.*

36 (c) *The authority shall consider actions that (1) maximize job*  
37 *creation in California at the earliest feasible time and (2) expedite*  
38 *the completion of vital infrastructure projects that improve rail*  
39 *safety, mobility, and performance.*

1     (d) (1) The ARRA funds appropriated in subdivision (a) are  
2     available for preliminary engineering, project-level environmental  
3     work, mitigation, final design, and construction for the following  
4     corridors that were approved by the Federal Railroad  
5     Administration (FRA), without reference to any individual corridor  
6     or corridors:

7     (A) San Francisco to San Jose.

8     (B) Merced to Fresno.

9     (C) Fresno to Bakersfield.

10    (D) Los Angeles to Anaheim.

11    (2) The ARRA funds appropriated in subdivision (a) are also  
12    available for preliminary engineering and project-level  
13    environmental work for the following five corridors, without  
14    reference to any individual corridor or corridors:

15    (A) Los Angeles to San Diego.

16    (B) Los Angeles to Palmdale.

17    (C) Palmdale to Bakersfield.

18    (D) Merced to San Jose.

19    (E) Sacramento to Merced.

20    (e) (1) The authority shall work with the FRA to establish  
21    priorities among the four corridor programs in paragraph (1) of  
22    subdivision (d) and, if applicable, for the five corridor programs  
23    in paragraph (2) of subdivision (d), and to create a plan for  
24    expenditure of ARRA funds appropriated in subdivision (a).

25    (2) No later than 30 days following the submittal of the initial  
26    plan for expenditure of ARRA funds to the FRA, the authority shall  
27    submit a copy of the plan to the Director of Finance and to the  
28    policy committees with jurisdiction over transportation matters  
29    and the fiscal committees in both houses of the Legislature.

30    (3) All funds appropriated pursuant to subdivision (a) shall be  
31    expended in a manner that is consistent with and subject to the  
32    requirements of Section 2704.08 of the Streets and Highways Code  
33    applicable to bond proceeds, to the extent those requirements are  
34    consistent with the federal conditions applicable to expenditure  
35    of the funds.

36    (f) It is the intent of the Legislature to establish an inspector  
37    general to oversee the fiscal functions of the authority to ensure  
38    public confidence and private investor confidence in the fiscal  
39    management and construction of the project. The inspector general  
40    would report to the authority and Legislature annually.

1     ~~SEC. 3.~~

2     *SEC. 6.* This act is an urgency statute necessary for the  
3 immediate preservation of the public peace, health, or safety within  
4 the meaning of Article IV of the Constitution and shall go into  
5 immediate effect. The facts constituting the necessity are:

6     In order to ensure that California may secure the maximum  
7 amount of funds available for high-speed rail development and to  
8 provide for necessary staff in that regard as quickly as possible, it  
9 is necessary that this act take effect immediately.

O